

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to five-year rules review and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 7, “Appeals and Hearings,” and Chapter 58, “Emergency Assistance,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 29C.20A and 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 29C.20A and 217.6.

Purpose and Summary

Chapter 58 was reviewed as part of the Department’s five-year rules review. This proposed rule making adds a new definition for the term “mitigation” and updates other definitions to match the definitions in Iowa Code chapter 321. The names of forms are proposed to be removed to eliminate unnecessary future changes as form names change. This proposed rule making clarifies that reimbursement for replacement of food or personal property through the Iowa Individual Assistance Grant Program (IIAGP) may be given in the form of checks or gift cards and the applicant must sign a promise to purchase replacement food or personal property.

Requirements relating to submission of receipts for claimed expenses and a request to participate in a voucher system are proposed to be removed; however, an applicant must provide proof of the household’s annual income and an itemized list of items that were damaged by a disaster. Applications are to be submitted within 45 days of a disaster declaration; however, the proposed rule making allows the application period to be extended beyond 45 days if the Governor extends the disaster proclamation.

This proposed rule making allows insurance deductibles to be reimbursed up to the \$5,000 limit per household as long as the household provides a denial letter from the insurance company. This proposed rule making clarifies that home repair assistance will be denied if preexisting conditions are the cause of the damage. Repairs to rental dwellings, dwelling units or landlord-owned equipment are excluded under this program. This proposed rule making clarifies that grant funding is limited to personal property, food assistance, home repair and temporary housing and cannot exceed \$5,000. The list of items that may be considered personal property is being revised to recategorize items in a more logical manner and remove maximum limits for each personal property type. The list of authorized home repair assistance is also being revised to remove maximum limits for each repair type. This proposed rule making increases the total temporary housing assistance from \$2,500 to \$5,000 and includes this assistance as part of disaster assistance.

Requirements for notices of adverse action were moved from Chapter 7 to Chapter 16, effective April 15, 2020. Chapter 7 is being updated to reflect that change. The proposed rule making increases the amount of time from 15 days to 30 days that a household may request reconsideration or file an appeal regarding an eligibility determination or a disagreement with the amount of assistance awarded.

This proposed rule making clarifies that the program shall commence on the day following the Governor’s disaster proclamation and shall be provided for a period of up to 180 days. The program may be extended in 90-day intervals when adequate justification is presented, but it cannot exceed 730 days from the date of the proclamation. If the disaster becomes a presidentially declared disaster and a Federal Emergency Management Agency (FEMA) disaster care management (DCM) grant is approved, then assistance may be provided for a period of up to 24 months from the date of the proclamation.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 20, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** paragraph **7.3(3)“c”**:

c. A final decision from a previous hearing with a presiding officer has been implemented.

ITEM 2. Amend paragraphs **7.4(3)“d”** and **“e”** as follows:

d. *Iowa individual disaster assistance program.* For appeals pertaining to the Iowa individual disaster assistance program, the appellant must appeal on or before the ~~fifteenth~~ thirtieth day following the date of the department’s reconsideration decision, pursuant to 441—subrule 58.7(1).

e. *Iowa disaster case management program.* For appeals pertaining to the Iowa disaster case management program, the appellant must appeal on or before the ~~fifteenth~~ thirtieth day following the date of the department’s reconsideration decision, pursuant to 441—subrule 58.7(1).

ITEM 3. Adopt the following **new** definition of “Mitigation” in rule **441—58.1(29C)**:

“*Mitigation*” means the effort to reduce the loss of life and property by lessening the impact of disasters to reduce human and financial consequences later.

ITEM 4. Amend rule ~~441—58.1(29C)~~, definitions of “Bona fide residence,” “Fifth-wheel travel trailer,” “Manufactured home,” “Manufactured or mobile home,” “Motor home” and “Travel trailer,” as follows:

“*Bona fide residence*” or “*bona fide address*,” as set forth in Iowa Code section 321.1(6C), means the pre-disaster street or highway address of an individual’s dwelling or dwelling unit. The bona fide residence of a person with more than one dwelling is the dwelling for which the person claims a homestead tax credit under Iowa Code chapter 425, if applicable. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in Iowa Code section 48A.2(2) 48A.2(3).

“*Fifth-wheel travel trailer*,” as set forth in Iowa Code section ~~321.1(36C)~~“~~c,~~” 321.1(36D)“*c,*” means a type of travel trailer which is towed by a pickup by a connecting device known as a fifth wheel. However, this type of travel trailer may have an overall length which shall not exceed 45 feet. ~~If the vehicle is used in this state as a place of human habitation for more than 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.~~

“*Manufactured home*” or “*modular home*,” as set forth in Iowa Code section ~~321.1(36B)~~ 321.1(36C), is a factory-built structure constructed under authority of 42 U.S.C. §5403 as amended to August 25, 2022, which is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

“*Manufactured or mobile home*,” as set forth in Iowa Code section ~~321.1(36C)~~“~~a,~~” 321.1(36D)“*a,*” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons.

“*Motor home*,” as set forth in Iowa Code section ~~321.1(36C)~~“~~d,~~” 321.1(36D)“*d,*” means a motor vehicle designed as an integral unit to be used as a conveyance upon the public streets and highways and for use as a temporary or recreational dwelling and having at least four, two of which shall be systems specified in paragraph “1,” “4,” or “5” of this definition, of the following permanently installed systems which meet American National Standards Institute and National Fire Protection Association standards in effect on the date of manufacture:

1. Cooking facilities.
2. Ice box or mechanical refrigerator.
3. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.
4. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.
5. Heating or air conditioning system or both, separate from the vehicle engine or the vehicle engine electrical system.
6. A 110- to 115-volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply. ~~If the vehicle is used in this state as a place of human habitation for more than 90 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.~~

“*Travel trailer*,” as set forth in Iowa Code section ~~321.1(36C)~~“~~b,~~” 321.1(36D)“*b,*” means a vehicle without motive power used, manufactured, or constructed to permit its use as a conveyance upon the public streets and highways and designed to permit its use as a place of human habitation by one or more persons. The vehicle may be up to 8 feet, 6 inches in width and its overall length shall not exceed 45 feet. The vehicle shall be customarily or ordinarily used for vacation or recreational purposes and not used as a place of permanent habitation. If the vehicle is used in this state as a place of human habitation for more than 180 consecutive days in one location, the vehicle shall be classed as a manufactured or mobile home regardless of the size limitations provided in this definition.

ITEM 5. Amend subrule 58.2(2) as follows:

58.2(2) *Voucher system.* The IIAGP will be implemented through a reimbursement or voucher system. Reimbursement may include checks or gift cards provided to the applicant for replacement food or personal property only. The applicant must sign a promise to purchase replacement food or personal property.

ITEM 6. Amend rule 441—58.3(29C) as follows:

441—58.3(29C) Application for assistance. To request assistance for disaster-related expenses, the household shall complete Form 470-4448, ~~Individual Disaster Assistance Application~~, and submit it within 45 days of the disaster declaration to the contracted administrative entity along with: (1) receipts for the claimed expenses or (2) a request to participate in a voucher system.

58.3(1) No change.

58.3(2) The application shall include:

a. A declaration of the household's annual income, accompanied by:

(1) ~~A~~ a current pay stub, W-2 form, or income tax return, ~~or~~

(2) ~~Documentation of current enrollment in an assistance program administered by the department, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), or other subsidy program.~~

b. to e. No change.

f. A short, handwritten narrative of how the disaster event caused the claimed loss, including an itemized list of items damaged by the disaster.

g. A copy of a picture identification document for ~~each~~ the adult applicant.

h. No change.

58.3(3) The application period may be extended beyond 45 days through an extension of the governor's disaster proclamation. If the forty-fifth day falls on a Saturday, Sunday, or holiday, the deadline is moved to the following business day.

ITEM 7. Amend subrules 58.4(4) to 58.4(6) as follows:

58.4(4) The household has unmet disaster-related expenses or serious needs that are not covered by insurance ~~or that are less than the deductible amount. This program will not reimburse the amount of the insurance deductible when the claim exceeds the deductible amount.~~ The applicant must provide a denial letter from the insurance company.

58.4(5) The household has not previously received assistance from this program or another program for the same loss in the same disaster.

58.4(6) Household eligibility for home repair assistance for a dwelling or dwelling unit damaged due to a proclaimed disaster is only available for a household that owns and occupies the dwelling or dwelling unit being repaired.

a. Assistance will be denied if preexisting conditions are the cause of the damage.

b. Repairs to rental dwellings, dwelling units, or landlord-owned equipment are excluded under this program.

ITEM 8. Amend rule 441—58.5(29C) as follows:

441—58.5(29C) Eligible categories of assistance. ~~The maximum assistance available~~ Expenses eligible for grant funding shall be limited to a household in a single disaster is personal property, food assistance, home repair and temporary housing and shall not exceed a total of \$5,000. Assistance is available under the program for the following disaster-related expenses:

58.5(1) Personal property and food assistance may be issued for damage to personal property or loss of food, ~~including replacement.~~ Eligible items for personal property assistance may include but are not limited to the following items, based on the item's condition:

a. ~~Kitchen items, excluding large appliances up to a maximum of \$560, including~~ Appliances or equipment, including:

(1) Small household appliances, e.g., toaster, blender, microwave, and including, but not limited to:

1. Toasters,
2. Blenders,
3. Microwaves,
4. Vacuums,
5. Dehumidifiers, and
6. Window air conditioners.

(2) Furnishings (e.g., tables, chairs) Large household appliances, if the appliance is owned by the household and not a landlord.

(3) Outdoor equipment, including:

1. Lawn mowers, and
2. Snow blowers.

~~b. Large kitchen appliances or laundry appliances, up to a maximum of \$700 per appliance and a maximum per household not to exceed \$2,800, if the appliances are owned by the household and not a landlord.~~

~~c. b. Food, up to a maximum of \$50 for one person plus \$25 for each additional person in the household.~~

~~d. c. Personal hygiene items, up to a maximum of \$30 per person and \$150 per household.~~

~~e. d. Bedroom furnishings, up to \$500 per person. Basic household items, including but not limited to:~~

- (1) Furnishings (e.g., tables, chairs, dressers, couches, end tables),
- (2) Beds (e.g., mattresses, bedding),
- (3) Curtains or window treatments,
- (4) Car or booster seats,
- (5) Strollers,
- (6) Storage totes,
- (7) Televisions,
- (8) Laptop or desktop computers, and
- (9) Area rugs.

~~f. e. Clothing, up to a maximum of \$145 per person.~~

~~g. f. Living area furnishings, such as: couch, chair, end tables, and television, up to a maximum of \$1,000. Short-term transportation, such as bus passes.~~

~~h. g. Other items, including: Debris removal.~~

~~(1) Dehumidifier, up to a maximum of \$250.~~

~~(2) One window air conditioner, up to a maximum of \$250.~~

~~i. h. Vehicle repair, up to a maximum of \$500 or replacement, if a total loss has occurred.~~

~~i. Other personal property items, as determined by the department, in order to assist the household in making the dwelling or dwelling unit safe, sanitary, and secure.~~

58.5(2) Home repair assistance may be issued for home repair for an owner-occupied dwelling or dwelling unit as needed to make the dwelling or dwelling unit safe, sanitary, and secure, up to a maximum of \$5,000.

a. No change.

b. ~~Assistance may be authorized for:~~ Repairs to rental dwellings or dwelling units or landlord-owned equipment are excluded under this program.

~~(1) The repair of structural components, such as the foundation and roof.~~

~~(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.~~

~~(3) Debris removal, including trees, up to a maximum of \$1,000.~~

c. ~~Repairs to rental dwellings or dwelling units or landlord-owned equipment are excluded under this program.~~ Assistance may be authorized for:

(1) The repair of structural components, such as the foundation and roof.

(2) The repair of floors, walls, ceilings, doors, windows, and carpeting of essential interior living space that was occupied at the time of the disaster.

(3) Mitigation measures.

(4) Debris removal, including trees.

~~d. (5) Bathroom, up to a maximum of \$1,500, including toilet, sink, and tub/shower.~~

~~e. (6) Sump pump installation (in a flood event only), up to a maximum of \$200 installed.~~

~~f. (7) Electrical or mechanical repairs, up to a maximum of \$2,000.~~

~~g. (8) Water heater, up to a maximum of \$1,500 installed.~~

~~h. (9) Heating systems, up to a maximum of \$2,100 installed.~~

~~i. (10) Air-conditioning systems, up to a maximum of \$2,100 installed.~~

~~j. (11) Water well repair for dwellings or dwelling units with no other source of water available, up to a maximum of \$2,000.~~

~~k. (12) Water softener repair, up to a maximum of \$500.~~

58.5(3) Temporary housing assistance may be issued to a household, ~~up to a limit of \$65 per day, for lodging at a licensed establishment, such as a hotel or motel. The household's home must be considered to be destroyed, uninhabitable, inaccessible, or unavailable to the household. Temporary housing assistance may also be granted for deposits for a new dwelling.~~ Total temporary housing assistance may not exceed ~~\$2,500~~ \$5,000 and is included as part of disaster assistance.

Temporary housing assistance may also be granted for rental unit application fees, deposits, and first month's rent for a new dwelling.

58.5(4) No change.

ITEM 9. Amend paragraph **58.6(3)“b”** as follows:

b. Notify the applicant household of the eligibility decision in accordance with notice requirements in 441—Chapter 16.

ITEM 10. Amend paragraphs **58.7(1)“b”** and **“c”** as follows:

b. To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the letter notifying the household of the department's decision.

c. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within ~~45~~ 30 days of receipt of the request.

ITEM 11. Amend paragraph **58.7(2)“a”** as follows:

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), ~~Appeal and Request for Hearing~~, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the reconsideration decision.

ITEM 12. Amend subrule 58.8(1) as follows:

58.8(1) *Deferral to federal assistance.* Upon declaration of a disaster by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sections 5121 to ~~5206~~ 5207, the Iowa individual assistance grant program administered under this chapter shall be discontinued in the geographic area ~~included in the presidential declaration~~ designated by the federal individual assistance program. Upon issuance of the presidential declaration:

a. to c. No change.

ITEM 13. Amend paragraphs **58.23(1)“a”** to **“e”** as follows:

a. The program shall be in effect only in those counties named in the proclamation. ~~Assistance for a state-only proclamation shall be provided for a period of up to 180 days from the date of proclamation.~~

b. ~~A request for an additional 90-day extension to the period of performance will be considered when adequate justification is presented to the department. The program shall commence on the day following the governor's disaster proclamation and shall be provided for a period of up to 180 days from the date of proclamation.~~

c. ~~The program shall commence on the day following proclamation of a disaster by the governor and remain in effect through 180 intervals up to 90 days even if the disaster becomes a presidentially proclaimed disaster that authorizes individual assistance when adequate justification is presented to the department, but not to exceed 730 days from the date of the proclamation.~~

d. ~~The period of performance for~~ If the disaster transforms to become a presidentially proclaimed declared disaster is and a Federal Emergency Management Agency (FEMA) disaster care management (DCM) grant is approved, then assistance may be provided for a period of up to 24 months from the date of the presidential proclamation.

e. The reporting of the numbers of contacts, cases opened, cases pending, cases closed, and other required reports requested by the department shall be submitted ~~weekly on~~ with a day frequency determined by the department.

ITEM 14. Amend paragraphs **58.31(1)“b”** and **“c”** as follows:

b. To request reconsideration, the household shall submit a written request to the DHS Division of Field Operations—Emergency Assistance, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the letter notifying the household of the contracted entity’s decision.

c. The department shall review any additional evidence or documentation submitted and issue a reconsideration decision within ~~45~~ 30 days of receipt of the request.

ITEM 15. Amend paragraph **58.31(2)“a”** as follows:

a. Appeals must be submitted in writing, either on Form 470-0487 or 470-0487(S), ~~Appeal and Request for Hearing~~, or in any form that provides comparable information, to the DHS Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, within ~~45~~ 30 days of the date of the reconsideration decision.